

James, Christopher

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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IN RE: ADAMS GOLF, INC. :
SECURITIES LITIGATION :

X

ORAL DEPOSITION

OF

CHRISTOPHER M. JAMES

Friday, August 11, 2006

- - -

Oral deposition of CHRISTOPHER M.
JAMES, held at the offices of AKIN GUMP
STRAUSS HAUER & FELD, LLP, 590 Madison Avenue,
New York, New York, commencing at 8:30 a.m.,
reported by Pamela Harrison, RMR, CRR, CSR and
Notary Public.

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|---------|--|-----------|
| 1 | Q. Adams declined some, and the S&P | 11:19:10a |
| 2 | small cap and Callaway declined more -- is that | 11:19:14a |
| 3 | right so far? -- on or about July 23rd. | 11:19:20a |
| 4 | A. If you said Callaway and the | 11:19:23a |
| 5 | peer group? | 11:19:26a |
| 6 | Q. Yes. | 11:19:27a |
| 7 | A. I think you may have said -- | 11:19:27a |
| 8 | Q. You know what, let me start | 11:19:29a |
| 9 | again. You are quite right. | 11:19:30a |
| 10 | Am I reading this correctly | 11:19:31a |
| 11 | that on July 23rd both Callaway and the peer | 11:19:33a |
| 12 | group went down sharply and roughly in tandem? | 11:19:36a |
| 13 | A. Yes. I think if you go to the | 11:19:42a |
| 14 | next exhibit, it might be easier. | 11:19:45a |
| 15 | Q. Okay. | 11:19:49a |
| 16 | A. 340. | 11:19:49a |
| 17 | Q. Okay. | 11:19:50a |
| 18 | A. Which has the dates and the | 11:19:51a |
| 19 | price decline. So on 7/23/1998, Adams is down | 11:19:57a |
| 20 | 13 percent -- about roughly 13 percent; Callaway | 11:20:05a |
| 21 | is down 33 percent; and Miller's peer group is | 11:20:08a |
| 22 | down 28.2 percent. | 11:20:12a |
| 23 | Q. I see. | 11:20:14a |
| 24 | Now, Miller's peer group, do | 11:20:19a |

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|---------|---|-----------|
| 1 | A. I used the peer group return as | 11:22:08a |
| 2 | reported by Mr. Miller in his rebuttal report. | 11:22:13a |
| 3 | My recollection is I could come | 11:22:18a |
| 4 | close but not exactly match the peer returns | 11:22:21a |
| 5 | by taking the -- the peer group return by | 11:22:26a |
| 6 | taking a value weighted average of the | 11:22:31a |
| 7 | individuals within the group. | 11:22:37a |
| 8 | Q. What do you mean by "value | 11:22:39a |
| 9 | weighted average"? | 11:22:42a |
| 10 | A. I was responding to the question | 11:22:43a |
| 11 | you just asked, was it a value weighted average | 11:22:44a |
| 12 | or an equally weighted average of the returns. | 11:22:49a |
| 13 | I can come close to, if I use | 11:22:54a |
| 14 | value weights, come close to the returns that | 11:22:56a |
| 15 | he had. | 11:22:57a |
| 16 | Q. That's fine. And I'm just | 11:22:58a |
| 17 | asking you what you did in using the value | 11:23:00a |
| 18 | weights, what process did you go through and | 11:23:01a |
| 19 | what specifically, specifically what value did | 11:23:03a |
| 20 | you weight. | 11:23:07a |
| 21 | A. The market value of the common | 11:23:09a |
| 22 | stock. | 11:23:12a |
| 23 | THE WITNESS: And I apologize, | 11:23:20a |
| 24 | but I need to take a short break. | 11:23:20a |

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|---------|--|-----------|
| 1 | you know whether it included Callaway? | 11:20:22a |
| 2 | A. It did. | 11:20:23a |
| 3 | Q. And was the peer group -- the | 11:20:24a |
| 4 | peer group was comprised of how many companies? | 11:20:26a |
| 5 | A. I believe it was -- it consisted | 11:20:37a |
| 6 | of Callaway, Teardrop, Aldila -- | 11:20:42a |
| 7 | THE COURT REPORTER: Callaway, | 11:20:54a |
| 8 | comma Teardrop? | 11:20:54a |
| 9 | THE WITNESS: It might help, | 11:20:54a |
| 10 | it's on the top line on the first page of | 11:20:54a |
| 11 | Mr. Miller's report. | 11:21:02a |
| 12 | BY MR. COLLINS: | 11:21:04a |
| 13 | Q. Okay. | 11:21:04a |
| 14 | A. I can read these off, but it may | 11:21:04a |
| 15 | be helpful for the court reporter just to look | 11:21:08a |
| 16 | at them. | 11:21:10a |
| 17 | It would be Callaway, Teardrop, | 11:21:10a |
| 18 | Aldila, Coastcast, Arnold Palmer, and Golden | 11:21:14a |
| 19 | Bear. | 11:21:18a |
| 20 | Q. Now, as you used the peer group | 11:21:27a |
| 21 | on Exhibits 339 and 340, was it a weighted group | 11:21:41a |
| 22 | or was it unweighted, based on the size or the | 11:21:51a |
| 23 | market caps or some other characteristics of the | 11:22:01a |
| 24 | companies making up the peer group? | 11:22:06a |

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|---------|--|-----------|
| 1 | MR. COLLINS: Off the record. | 11:23:24a |
| 2 | (A recess was had from | 11:33:46a |
| 3 | 11:23 a.m. to 11:33 a.m.; and then the | 11:33:46a |
| 4 | proceedings continued as follows:) | 11:33:46a |
| 5 | BY MR. COLLINS: | 11:33:46a |
| 6 | Q. Exhibit 339. | 11:33:46a |
| 7 | A. Okay. | 11:33:48a |
| 8 | Q. Why did you do this just for the | 11:33:49a |
| 9 | month of July? | 11:33:56a |
| 10 | A. Because Mr. Miller indicated in | 11:33:59a |
| 11 | his rebuttal report that it is his conjecture | 11:34:05a |
| 12 | that the price decline, particularly in the | 11:34:11a |
| 13 | latter part of July, was attributable to, I | 11:34:15a |
| 14 | think he refers to it as leakage regarding gray | 11:34:20a |
| 15 | market activities. | 11:34:26a |
| 16 | Q. Is there something about Exhibit | 11:34:27a |
| 17 | 339 or Exhibit 340 that leads you to question | 11:34:28a |
| 18 | that conclusion on his part? | 11:34:33a |
| 19 | A. I think that -- yes, I think | 11:34:35a |
| 20 | that this analysis demonstrates, using his data, | 11:34:41a |
| 21 | that the decline in Adams Golf during this | 11:34:43a |
| 22 | period of time was certainly in line with the | 11:34:51a |
| 23 | decline experienced by its -- the firms | 11:34:55a |
| 24 | identified by Mr. Miller as being peers to Adams | 11:35:01a |

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|---------|--|---------|---|
| 1 | Golf, and that consistent with the discussion in 11:35:07a | 1 | late July, is the period that he focuses in on 11:38:45a |
| 2 | my report, the decline appears to be a result 11:35:18a | 2 | his report. 11:38:49a |
| 3 | principally of softness in the golf industry as 11:35:25a | 3 | Just to add that he -- and the 11:38:51a |
| 4 | reflected by the earnings miss and discussion of 11:35:29a | 4 | other reason is that he has a chart, I believe 11:38:55a |
| 5 | difficulties in the market that Callaway 11:35:36a | 5 | it's -- if you don't mind, I'll take it off. 11:39:00a |
| 6 | disclosed, and then the peer group -- I think 11:35:44a | 6 | (The witness takes the clip off 11:39:08a |
| 7 | Coastcast has a news article during that same 11:35:48a | 7 | the document.) 11:39:10a |
| 8 | period of time indicating same weakness in 11:35:53a | 8 | BY MR. COLLINS: 11:39:10a |
| 9 | product demand, which I think is consistent with 11:36:00a | 9 | Q. Please. 11:39:10a |
| 10 | the announcement of Callaway, since Coastcast is 11:36:06a | 10 | A. That is a -- that has a somewhat 11:39:15a |
| 11 | a major supplier to Callaway. 11:36:09a | 11 | different pegging in the sense that it's pegged 11:39:23a |
| 12 | Q. Did you undertake -- the 11:36:15a | 12 | to 1. It's his Exhibit A. It's entitled ADGO 11:39:28a |
| 13 | analysis of these various stock prices, did you 11:36:20a | 13 | versus XLC(4), Adams Golf versus Comparable 11:39:35a |
| 14 | do any work taking it out beyond July 31st? 11:36:25a | 14 | Index. He carries it out to -- 12/23/1999 is 11:39:43a |
| 15 | A. No. I -- you mean -- 11:36:33a | 15 | the last date. 11:39:55a |
| 16 | Q. Did you run the chart beyond 11:36:37a | 16 | Q. You are referring to the page 11:39:57a |
| 17 | July 31st? 11:36:39a | 17 | immediately after the page that says Exhibit A, 11:40:01a |
| 18 | A. No, I just focused on the dates 11:36:41a | 18 | or are you referring to a later? 11:40:07a |
| 19 | in -- the dates that he identified as being 11:36:43a | 19 | Which chart are you referring 11:40:17a |
| 20 | associated with price declines in late July that 11:36:53a | 20 | to, please? 11:40:18a |
| 21 | he contends may be associated with information 11:36:59a | 21 | A. I know this is -- it doesn't 11:40:24a |
| 22 | disclosures regarding -- or leakage of 11:37:03a | 22 | make the record look particularly good because 11:40:26a |
| 23 | information regarding, say, purchase orders by 11:37:07a | 23 | I'm holding something up, but it is this chart 11:40:30a |
| 24 | Costco. 11:37:10a | 24 | (indicating), and I believe you are looking at 11:40:34a |
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| 1 | Q. And in that regard you are 11:37:16a | 1 | it. 11:40:36a |
| 2 | referring to the information he has -- perhaps 11:37:17a | 2 | MS. FOX: Let me just check 11:40:37a |
| 3 | other places as well, but you are referring to 11:37:21a | 3 | that. I'll come around and see whether 11:40:39a |
| 4 | the information he has in Paragraph 22(A) of his 11:37:23a | 4 | it's the same. 11:40:42a |
| 5 | rebuttal report? 11:37:26a | 5 | THE WITNESS: Just so you are 11:40:45a |
| 6 | A. 22(A), yes. 11:37:28a | 6 | clear, there appears to be two charts 11:40:46a |
| 7 | Q. Now, how long ago did you 11:37:39a | 7 | in his Exhibit A. One is -- it looks 11:40:48a |
| 8 | prepare exhibits or did you create the documents 11:37:41a | 8 | like they are the same chart. One is 11:41:00a |
| 9 | that are now 339 and 340? 11:37:43a | 9 | simply, in my version, a smaller 11:41:03a |
| 10 | A. Within the last week. 11:37:49a | 10 | version of the other. 11:41:06a |
| 11 | Q. Did counsel ask you to do so? 11:37:55a | 11 | BY MR. COLLINS: 11:41:09a |
| 12 | A. No. 11:37:58a | 12 | Q. Okay. Well, the chart -- 11:41:09a |
| 13 | Q. Did you tell counsel you were 11:37:58a | 13 | A. This you can identify -- 11:41:23a |
| 14 | doing this? 11:38:00a | 14 | Q. Not a problem. 11:41:24a |
| 15 | A. Yes. 11:38:00a | 15 | A. Okay. 11:41:26a |
| 16 | Q. Did you run any other charts 11:38:10a | 16 | Q. Do you see the page that says on 11:41:26a |
| 17 | beyond 339 either within the last week or since 11:38:13a | 17 | it Exhibit A? It's probably in your left hand. 11:41:28a |
| 18 | the rebuttal report? 11:38:18a | 18 | A. Yeah, the problem I'm having is 11:41:35a |
| 19 | A. I don't believe so. I don't 11:38:24a | 19 | that there are a number of pages that say 11:41:37a |
| 20 | recall doing any. 11:38:26a | 20 | Exhibit A on it. Okay? Maybe we can make this 11:41:40a |
| 21 | Q. And did you undertake an 11:38:28a | 21 | easier. 11:41:43a |
| 22 | analysis of peer performance with respect to 11:38:30a | 22 | This is Exhibit A (indicating), 11:41:44a |
| 23 | August or September? 11:38:35a | 23 | it only has Exhibit A on it. Then there is a 11:41:46a |
| 24 | A. No, my focus was only on late -- 11:38:39a | 24 | page that follows it which is a -- 11:41:50a |

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| 1 | client and says, "I'm going to issue an analyst | 12:19:24p |
| 2 | report tomorrow that is going to have an impact | 12:19:26p |
| 3 | on the stock price. I just wanted you to know | 12:19:28p |
| 4 | what I'm going to say." | 12:19:31p |
| 5 | A. That -- I'm not familiar with | 12:19:33p |
| 6 | that practice. | 12:19:35p |
| 7 | Q. You are familiar with the | 12:19:36p |
| 8 | occurrence that stock prices move sometimes on | 12:19:40p |
| 9 | the basis of oral information being disseminated | 12:19:45p |
| 10 | into the marketplace? | 12:19:51p |
| 11 | A. Are you saying -- | 12:19:55p |
| 12 | Q. Rumors move stock prices | 12:19:58p |
| 13 | sometimes, don't they? | 12:20:00p |
| 14 | A. If they are material and -- if | 12:20:02p |
| 15 | they are material, they certainly can move stock | 12:20:13p |
| 16 | prices, and there are scientific methods for the | 12:20:15p |
| 17 | determination of whether a specific rumor or | 12:20:21p |
| 18 | conjecture is disseminated to the market. | 12:20:31p |
| 19 | Q. What are those scientific | 12:20:36p |
| 20 | methods? | 12:20:37p |
| 21 | A. Let me give a couple of | 12:20:42p |
| 22 | examples. | 12:20:44p |
| 23 | There is academic literature | 12:20:45p |
| 24 | that looks at the impact of, say, chat room | 12:20:50p |

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| 1 | information, and that literature asks the | 12:21:02p |
| 2 | question of whether chat room information is | 12:21:10p |
| 3 | viewed as material to investors. | 12:21:12p |
| 4 | Now, what that literature | 12:21:19p |
| 5 | recognizes is that a reference in a chat room | 12:21:21p |
| 6 | to a particular company, whether that is | 12:21:25p |
| 7 | favorable or unfavorable, is likely to be a | 12:21:32p |
| 8 | subjective evaluation. So those studies | 12:21:39p |
| 9 | provide objective measures of the extent to | 12:21:41p |
| 10 | which there is discussion within a chat room | 12:21:46p |
| 11 | and objective measures as to whether that -- | 12:21:51p |
| 12 | those discussions are favorable or unfavorable | 12:21:54p |
| 13 | and then attempts to test whether that | 12:21:59p |
| 14 | information is viewed by market participants | 12:22:04p |
| 15 | as being material. | 12:22:07p |
| 16 | Q. What are these objective | 12:22:11p |
| 17 | measures determining whether the information is | 12:22:18p |
| 18 | favorable or unfavorable? | 12:22:20p |
| 19 | A. The -- and I'm going by | 12:22:26p |
| 20 | recollection, this is an article published in | 12:22:27p |
| 21 | the Journal of Finance maybe five years ago -- | 12:22:29p |
| 22 | the researchers set up a text-based search of | 12:22:36p |
| 23 | chat room information and identify certain words | 12:22:42p |
| 24 | that would be considered to be unambiguous with | 12:22:51p |

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| 1 | favorable such as "buy" -- | 12:22:59p |
| 2 | Q. "Hot"? | 12:23:01p |
| 3 | A. Something like that. | 12:23:03p |
| 4 | -- and "negative," and then | 12:23:09p |
| 5 | try to come up with a quantitative measure of | 12:23:09p |
| 6 | the frequency on a particular day in which | 12:23:12p |
| 7 | those words appear, and then to use that | 12:23:14p |
| 8 | quantitative measure to examine whether on | 12:23:20p |
| 9 | that day there is a significant stock price | 12:23:24p |
| 10 | movement, and so what the researcher is doing | 12:23:29p |
| 11 | is setting up a -- an experiment that can be | 12:23:34p |
| 12 | replicated by a third party that is testing, | 12:23:37p |
| 13 | using objective scientific measures, the | 12:23:43p |
| 14 | significance of a piece of information. | 12:23:49p |
| 15 | Q. And you said Journal of Finance | 12:23:55p |
| 16 | five years ago or thereabouts? | 12:23:58p |
| 17 | A. Or thereabouts, yes. | 12:24:00p |
| 18 | Q. Who wrote it? | 12:24:01p |
| 19 | A. My recollection is a guy -- at | 12:24:04p |
| 20 | least one of the authors was at the University | 12:24:06p |
| 21 | of British Columbia. I don't recall, as I sit | 12:24:09p |
| 22 | here, who the authors are. | 12:24:13p |
| 23 | Q. That article dealt with chat | 12:24:14p |
| 24 | room -- | 12:24:16p |

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|----------|---|-----------|
| 1 | A. Right. | 12:24:17p |
| 2 | Q. -- communication. | 12:24:18p |
| 3 | Did it deal with oral rumors? | 12:24:19p |
| 4 | A. I don't recall. | 12:24:25p |
| 5 | Q. Rumor or other forms of oral | 12:24:28p |
| 6 | communication can, if material, affect stock | 12:24:34p |
| 7 | price; correct? | 12:24:37p |
| 8 | A. If that information is material | 12:24:40p |
| 9 | and becomes available to market participants. | 12:24:43p |
| 10 | Q. And how in that case does one | 12:24:46p |
| 11 | objectively measure, if at all, as to whether | 12:24:48p |
| 12 | the information has materially affected the | 12:24:53p |
| 13 | market? | 12:24:56p |
| 14 | A. The procedure that I think I've | 12:24:57p |
| 15 | used and would use is to first provide | 12:25:01p |
| 16 | information -- to ascertain whether the | 12:25:05p |
| 17 | information that is characterized as -- you are | 12:25:09p |
| 18 | characterizing as rumor or opinion is publicly | 12:25:15p |
| 19 | available. So there is a news report, an | 12:25:21p |
| 20 | analyst report, a company disclosure, a | 12:25:27p |
| 21 | disclosure, say, of a government regulatory | 12:25:33p |
| 22 | agency, some objective way of determining | 12:25:37p |
| 23 | whether the information is publicly available. | 12:25:39p |
| 24 | And then the second step would | 12:25:45p |

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| 1 | report, the 95 percent level is the 04:15:08p | 1 | regarding -- there would be no reason to use a 04:18:22p |
| 2 | conventional level; although, some researchers 04:15:11p | 2 | multiple-day window more than two days for this 04:18:28p |
| 3 | will report significance at a 10 percent 04:15:17p | 3 | analysis because you would use that if you were 04:18:34p |
| 4 | level. And so I examined whether there were 04:15:21p | 4 | uncertain as -- you have a news announcement -- 04:18:37p |
| 5 | days that were significant at a 90 percent 04:15:31p | 5 | we talked about this earlier today; if you had a 04:18:40p |
| 6 | level and what information was coming to the 04:15:36p | 6 | news announcement and you weren't sure whether 04:18:44p |
| 7 | market on those days. 04:15:47p | 7 | that news announcement was made -- you know what 04:18:46p |
| 8 | Second is in response to a 04:15:49p | 8 | day it was made on, but you don't know whether 04:18:48p |
| 9 | comment in his report concerning looking at the 04:15:51p | 9 | it was during trading hours or not. 04:18:54p |
| 10 | returns over multiple days. I asked the 04:16:01p | 10 | Q. Sure. 04:18:54p |
| 11 | question of whether if the results and my 04:16:03p | 11 | But you might also have new 04:18:54p |
| 12 | conclusions regarding statistical significance 04:16:11p | 12 | information enter in the market or allegedly 04:18:55p |
| 13 | and the information coming to the market on 04:16:16p | 13 | new information enter in the market that might 04:18:58p |
| 14 | those days would be altered if I used a two-day 04:16:18p | 14 | be in the form of rumor or oral communication 04:19:01p |
| 15 | window, and concluded that -- my conclusions 04:16:25p | 15 | which would be another situation in which you 04:19:03p |
| 16 | were the same whether I used a two-day window or 04:16:33p | 16 | were uncertain as to what the disclosure date 04:19:06p |
| 17 | a one-day window for each of the events that I 04:16:36p | 17 | is. Correct? 04:19:08p |
| 18 | analyzed. 04:16:43p | 18 | A. No, I would certainly think that 04:19:09p |
| 19 | So if you take the Golf Pro 04:16:44p | 19 | if there was an allegation that a rumor or oral 04:19:11p |
| 20 | August 1st article and say, well, look at a 04:16:47p | 20 | communication were material, that you would be 04:19:18p |
| 21 | two-day window around that, would that alter 04:16:50p | 21 | able to identify the date at which that 04:19:25p |
| 22 | your conclusion regarding the statistical 04:16:53p | 22 | information became available to the market. I 04:19:30p |
| 23 | significance, would using a 90 percent 04:16:58p | 23 | would also say that -- and be able to relate it, 04:19:33p |
| 24 | confidence interval as opposed to a 95 percent 04:17:05p | 24 | as I talked about earlier today, in an objective 04:19:37p |
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| 1 | confidence interval impact the conclusion, and 04:17:08p | 1 | scientific manner, to the price reaction. 04:19:44p |
| 2 | the answer to both of those questions is no. 04:17:11p | 2 | As I have indicated, oral 04:19:48p |
| 3 | Q. Which events or which time 04:17:19p | 3 | communication, as it would be in the context 04:19:51p |
| 4 | periods during the class period did you consider 04:17:21p | 4 | of a conference call with investors, you would 04:19:52p |
| 5 | using a multiple-day event window for? 04:17:25p | 5 | look at the day on which that conference call 04:19:57p |
| 6 | A. Every day. 04:17:29p | 6 | occurred, that oral communication, for 04:19:59p |
| 7 | Q. Okay. And which events did you 04:17:31p | 7 | purposes of determining whether that 04:20:03p |
| 8 | consider using the 90 percent confidence level 04:17:33p | 8 | communication was material. 04:20:07p |
| 9 | for? 04:17:37p | 9 | Q. If it were a rumor, however, you 04:20:09p |
| 10 | A. Every day. 04:17:38p | 10 | might not know when the rumor first started 04:20:11p |
| 11 | Q. And how did you apply that using 04:17:40p | 11 | circulating; correct? 04:20:15p |
| 12 | every day? For example, if I can turn you to 04:17:42p | 12 | A. I think that's -- I mean, again, 04:20:19p |
| 13 | Page Exhibit 5? 04:17:46p | 13 | it's -- and we went through this before -- I 04:20:22p |
| 14 | A. Mm-hmm. 04:17:54p | 14 | would -- if I were asked to assess the 04:20:25p |
| 15 | Q. With regard to using a 04:17:55p | 15 | materiality of an alleged rumor, the first step 04:20:28p |
| 16 | multiple-day event window, what did you mean by 04:18:00p | 16 | I would take is to try to determine when that 04:20:33p |
| 17 | that; three days or five days? 04:18:03p | 17 | rumor was being utilized by market participants 04:20:35p |
| 18 | A. Two days. 04:18:04p | 18 | for purposes of pricing or valuing the stock. 04:20:45p |
| 19 | Q. Okay. You didn't look at 04:18:05p | 19 | I would also think that -- 04:20:48p |
| 20 | anything more than two days, did you? 04:18:06p | 20 | there's certainly -- and I would -- I would 04:20:54p |
| 21 | A. No, I had no information that 04:18:08p | 21 | expect to see, if it was a rumor that was 04:20:59p |
| 22 | would indicate to me that the market would not 04:18:10p | 22 | material and significant to investors, that -- 04:21:02p |
| 23 | operate in an efficient way and I had no 04:18:15p | 23 | as I indicated before, that there would be 04:21:06p |
| 24 | information to me that indicated any uncertainty 04:18:18p | 24 | some commentary on it, in some source. 04:21:08p |

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|----------|--|-----------|----------|--|-----------|
| 1 | Q. Are there models that can be | 05:21:20p | 1 | evidence, apart from what you've put in your | 05:24:16p |
| 2 | used that test materiality on the basis of | 05:21:21p | 2 | reports, to indicate when that Golf Pro article | 05:24:21p |
| 3 | volume or some combination of volume and price | 05:21:25p | 3 | was available? | 05:24:24p |
| 4 | movement? | 05:21:29p | 4 | A. Yes. | 05:24:26p |
| 5 | A. I mean, I have not seen that | 05:21:37p | 5 | Q. When? | 05:24:26p |
| 6 | analysis done in the context of, say, a damage | 05:21:40p | 6 | A. In response to the Miller report | 05:24:28p |
| 7 | analysis. I have seen some academic studies | 05:21:43p | 7 | where he conjectures that it might have been | 05:24:32p |
| 8 | that ask the question of whether information has | 05:21:49p | 8 | available earlier, I performed the following | 05:24:37p |
| 9 | an effect on trading volume. | 05:22:01p | 9 | test. Based upon communications that I'm aware | 05:24:40p |
| 10 | Q. And do you have any opinion as | 05:22:11p | 10 | of between Cornerstone and the publishers of | 05:24:46p |
| 11 | to the usability or appropriateness of those | 05:22:13p | 11 | Golf Pro, which is now not currently published, | 05:24:53p |
| 12 | models? | 05:22:17p | 12 | they were unable to answer the question as to | 05:25:04p |
| 13 | A. I think the appropriateness | 05:22:20p | 13 | whether it was available before or after the | 05:25:05p |
| 14 | would depend on the purpose of their being | 05:22:23p | 14 | cover price -- cover date. | 05:25:08p |
| 15 | used. I would have to go back and look at some | 05:22:31p | 15 | So I conducted a Factiva search | 05:25:11p |
| 16 | of those papers. Most of the paper -- the | 05:22:36p | 16 | between 1995 and 2000 in which I used the | 05:25:15p |
| 17 | academic literature in finance is more focused | 05:22:40p | 17 | keywords "Golf Pro magazine," and then I | 05:25:22p |
| 18 | on how information impacts value as opposed to | 05:22:48p | 18 | looked at all of the articles that were | 05:25:26p |
| 19 | trading volume. Although, there are a few | 05:22:53p | 19 | available on Factiva that reference Golf Pro | 05:25:29p |
| 20 | papers out there that look at trading volume. I | 05:22:55p | 20 | magazine and asked the question of whether | 05:25:34p |
| 21 | just don't recall what the conclusions are. | 05:22:58p | 21 | there was any reference in the public press to | 05:25:36p |
| 22 | Q. The famous Golf Pro article | 05:22:59p | 22 | a Golf Pro magazine article prior to the | 05:25:41p |
| 23 | allegedly of August or August 1, 1998, when was | 05:23:03p | 23 | stated publication date on the cover, and I | 05:25:46p |
| 24 | that available to the market? | 05:23:08p | 24 | was able to identify several instances in | 05:25:50p |
| Page 255 | | | Page 257 | | |
| 1 | A. As I indicate in my report, it's | 05:23:10p | 1 | which there is a reference to a particular | 05:25:53p |
| 2 | my opinion that it's available to the market on | 05:23:16p | 2 | issue of Golf Pro magazine, and all of the | 05:25:57p |
| 3 | August 1st. | 05:23:19p | 3 | references were after the publication date | 05:26:01p |
| 4 | Q. Well, surely you're not offering | 05:23:19p | 4 | which is consistent with -- which is | 05:26:04p |
| 5 | an opinion on that now, Dr. James, are you? | 05:23:21p | 5 | inconsistent with the conjecture by Mr. Miller | 05:26:09p |
| 6 | A. Yes, I am. | 05:23:23p | 6 | that the information was available to the | 05:26:13p |
| 7 | Q. You might be making an | 05:23:24p | 7 | market prior to the cover date. | 05:26:19p |
| 8 | assumption, but you are offering -- are you an | 05:23:26p | 8 | Q. Did you save those searches? | 05:26:27p |
| 9 | expert with regard to when Golf Pro appeared in | 05:23:29p | 9 | A. No. | 05:26:29p |
| 10 | 1998? | 05:23:32p | 10 | Q. Did you communicate with your | 05:26:30p |
| 11 | A. I'm not representing myself to | 05:23:33p | 11 | office about providing to us information with | 05:26:34p |
| 12 | be an expert in when Golf Pro appeared. I am | 05:23:35p | 12 | regard to the additional regressions you said | 05:26:35p |
| 13 | representing myself to be an expert in, first of | 05:23:40p | 13 | you would have? | 05:26:38p |
| 14 | all, knowing what the publication date and the | 05:23:43p | 14 | A. I have -- it's not my office. | 05:26:41p |
| 15 | convention of using publication dates. I | 05:23:50p | 15 | Q. Cornerstone. Whomever you had | 05:26:43p |
| 16 | believe your own expert uses the publication | 05:23:52p | 16 | to communicate with. | 05:26:44p |
| 17 | date as the date referenced in his chronology. | 05:23:55p | 17 | A. Yes, and the individual that is | 05:26:46p |
| 18 | Second, I undertook an | 05:23:59p | 18 | available -- the individual who undertook that | 05:26:53p |
| 19 | investigation to determine whether there was | 05:24:01p | 19 | analysis is not available, he's -- that's Amir | 05:26:59p |
| 20 | any evidence that suggests that the Golf Pro | 05:24:03p | 20 | Rosen, and I believe he's attending a deposition | 05:27:07p |
| 21 | article was available prior to the cover day | 05:24:06p | 21 | today. | 05:27:10p |
| 22 | and concluded based on that analysis that | 05:24:12p | 22 | Q. Not in this case? | 05:27:11p |
| 23 | there was none. | 05:24:14p | 23 | A. Yes, I believe he's downstairs, | 05:27:12p |
| 24 | Q. Okay. Do you know of any | 05:24:15p | 24 | two stories down. | 05:27:14p |